

shall terminate the administration and enforcement grant or cooperative agreement grant.

(3) If an agency fails to implement, enforce or maintain only a part of the program, the Director or his authorized designee shall reduce the grant to the amount of the program being operated by the agency.

(4) If an agency is not in compliance with the following nondiscrimination provisions, the Director or his authorized designee shall terminate the grant—

(i) Title VI of the Civil Rights Act of 1964 (78 Stat. 252). Nondiscrimination in Federally Assisted Programs, which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations at 43 CFR part 17.

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations at 41 CFR part 60.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs.

(5) If an agency fails to enforce the financial interest provisions of part 706 of this chapter the Director shall terminate the grant.

(6) If an agency fails to submit reports required by this part or part 705 of this chapter the Director shall reduce or terminate the grant.

(b) *Grant reduction and termination procedures.* (1) The Director or his authorized designee shall give at least 10 days written notice to the agency by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Director or his authorized designee shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Director or his authorized designee shall afford the agency opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The Director or his authorized designee shall notify the agency of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the agency shall refund or credit to the United States that portion of the grant money paid or owed to the agency and allocated to the terminated portion of the grant. However any portion of the grant that is required to meet commitments made prior to the effective date of termination shall be retained by the agency.

(5) The agency shall reduce the amount of outstanding commitments insofar as possible and report to the Director or his authorized designee the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate the agency shall not make any new commitments without the approval of the Director or his authorized designee.

(7) The Director or his authorized designee may allow termination costs as determined by applicable Federal cost principles listed in Federal Management Circular 74-4.

(c) *Appeals.* (1) An agency may appeal the Director or his authorized designee's decision to reduce or terminate a grant to the Director within 30 days of the Director or his authorized designee's decision.

(2) An agency shall include in an appeal—

(i) The decision being appealed, and

(ii) The facts which the agency believes justify a reversal or modification of the decision.

(3) The Director shall act upon appeals within 30 days of their receipt, or as soon thereafter as possible.

[58 FR 41938, Aug. 5, 1993]

§ 735.22 Audit.

The agency shall arrange for an independent audit no less frequently than once every two years, pursuant to the requirements of Office of Management

and Budget Circular No. A-102, Attachment P. The audits will be performed in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" and the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs" published by the Comptroller General of the United States and guidance provided by the cognizant Federal audit agency.

[47 FR 38492, Aug. 31, 1982]

§ 735.23 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property and related requirements contained in Office of Management and Budget Circular No. A-102.

§ 735.24 Allowable costs.

The Director or his authorized designee shall determine costs which may be reimbursed according to Office of Management and Budget Circular No. A-87.

[47 FR 38492, Aug. 31, 1982]

§ 735.25 Financial management.

(a) The agency shall account for grant funds in accordance with the requirements of Office of Management and Budget Circular No. A-102. Agencies shall use generally accepted accounting principles and practices, consistently applied. Accounting for grant funds must be accurate and current.

(b) The agency shall adequately safeguard all funds, property, and other assets and shall assure that they are used solely for authorized purposes.

(c) The agency shall provide a comparison of actual amounts spent with budgeted amounts for each grant.

(d) When advances are made by a letter-of-credit method, the agency shall make drawdowns from the U.S. Treasury through its commercial bank as closely as possible to the time of making the disbursements.

(e) The agency shall support accounting records by source documentation.

(f) The agency shall design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 735.26 Reports.

(a) The agency shall, for each grant made under this part, submit semi-annually to the Director or his authorized designee a Financial Status Report, Form 269 for non-construction grant activities in accordance with Office of Management and Budget Circular No. A-102, Attachment H and OSM requirements. This report shall be accompanied by a Performance Report, Form OSM-51 comparing actual accomplishments to the goals established for the period, prepared according to Attachment I of OMB Circular No. A-102 and OSM requirements. The agency shall also submit semiannually a separate Outlay Report and Request for Reimbursement for Construction Programs, Form 271, and accompanying narrative performance report comparing actual accomplishments with planned goals on grant funded construction activities.

(b) The Director or his authorized designee shall require through the grant agreement that semiannual reports describe the relationship of financial information to performance and productivity data, including unit cost information. This quantitative information will be reported on Forms OSM-51A and OSM-51B or OSM-51C, Quantitative Program Management Information, as applicable.

(c) The Director or his authorized designee shall require that when a grant is closed out in accordance with Attachment L to Office of Management and Budget Circular No. A-102, the following actions are taken:

(1) The grantee shall account for any property acquired with grant funds or received from the Government in accordance with the provisions of Attachment N to Office of Management and Budget Circular No. A-102. This may be accomplished by the submission of the Report of Government Property, Form OSM-60.

(2) The grantee shall submit a final financial report and thus release OSM from obligations under each grant or cooperative agreement that is being closed out.

[47 FR 38492, Aug. 31, 1982]